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1 UNITED STATES DEPARTMENT OF JUSTICE
2 BUREAU OF ALCOHOL, TOBACCO, FIREARMS
3 AND EXPLOSIVES

4

5 In re:)
6 JAMES T. FARMER)

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8

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10 REPORT OF PROCEEDINGS
11 FEDERAL FIREARMS LICENSE HEARING
12

13

14 April 21, 2005

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23 WE HEAR YOU LOUD AND CLEAR™

Government
Exhibit A

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1

I N D E X

2

2 WITNESS

DX CX RDX RCX

3 JULIE LANTER

4 By Ms. Rybak

11

5 By Mr. Farmer, Jr.

47

6

7 WILLIAM H. SCHMARR

8 By Ms. Rybak

71

9

10 MARILYNN TROMBATORE

11 By Ms. Rybak

93

12

13 DAVID COUNTS

14 By Ms. Rybak

108

15 By Mr. Farmer, Jr.

158

16

17 JAMES T. FARMER, JR.

18 By Ms. Rybak

208

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1 HEARING OFFICER: This is a hearing being
2 conducted under the provisions of Section 923(f)2
3 of Title 18, United States Code, and Section
4 478.74, Title 27, Code of Federal Regulations.

5 The time is 9:55 a.m. The date is
6 April 21st, 2005. An audio recording is being
7 made of the proceedings for the record. The place
8 is No. 200, 37 West Broad Street, Columbus,
9 Franklin County, Ohio 43215.

10 At this time, I will ask the licensee
11 and those present on his or her behalf to state
12 and spell your last name, give your title and your
13 relationship to the hearing.

14 MR. FARMER, JR.: I'm James Thomas Farmer,
15 Jr. I'm the license holder.

16 HEARING OFFICER: Okay. Could you spell your
17 last name, please.

18 MR. FARMER, JR.: F-a-r-m-e-r.

19 HEARING OFFICER: Okay.

20 MR. FARMER, SR.: I'm James T. Farmer, Sr.
21 I'm his dad.

22 HEARING OFFICER: Okay. Could you spell your
23 last name, please.

24 MR. FARMER, SR.: F-a-r-m-e-r.

1 HEARING OFFICER: Also present for the
2 government are?

3 MS. RYBAK: Joyce Rybak, division counsel,
4 R-y-b-a-k.

5 MS. LANTER: Julie Lanter, inspector,
6 L-a-n-t-e-r.

7 HEARING OFFICER: I am Desiree Winger,
8 hearing officer. I'm acting as hearing officer by
9 the direction and under the authority of the Chief
10 of the Firearms, Explosives and Arson Services
11 Division; Bureau of Alcohol, Tobacco, Firearms and
12 Explosives; United States Department of Justice.

13 The hearing is an administrative
14 proceeding and is informal in nature. This
15 hearing is to review the Notice of Revocation of a
16 License, ATF Form 4500, issued under the
17 provisions of Section 923 of Title 18, United
18 States Code.

19 The license was issued to James Thomas
20 Farmer, Jr., d/b/a Jim's Guns & Whatever, 1148
21 Richfield Center Road, Dayton, Ohio 45430, as a
22 dealer in firearms other than destructive
23 devices.

24 And your position, Mr. Farmer, is the

1 owner of the business, correct?

2 MR. FARMER, JR.: Yes, yes.

3 HEARING OFFICER: As a result of the receipt
4 of 4500, you, Mr. Farmer, requested in writing
5 that a hearing be granted. And at this time, I
6 will ask the government to present their case.

7 MS. RYBAK: Thank you.

8 James Farmer, doing business as Jim's
9 Guns & Whatever, 1140 Richfield Center Road,
10 Dayton, Ohio, holds a federal firearms license as
11 a dealer in firearms other than destructive
12 devices, and also as a special occupational
13 taxpayer, which allows him to deal in National
14 Firearms Act weapons.

15 The Gun Control Act provides that the
16 attorney general may, after notice and opportunity
17 for hearing, revoke any license issued under 18
18 USC Section 923 if the holder of the license has
19 willfully violated any provision of Chapter 44,
20 Title 18, United States Code, or any rule or
21 regulation prescribed by the attorney general
22 under the chapter.

23 The licensee, Jim's Guns, was issued a
24 license to engage in the business of dealing in

1 firearms under the provisions of Section 923 of
2 the Gun Control Act in 1968, and has subsequently
3 maintained that license to engage in the business
4 as a dealer in firearms.

5 The government will establish the
6 licensee was instructed in the proper methods of
7 keeping records that are required under Section
8 923(g) of the Gun Control Act, and the licensee
9 has been inspected by Inspector Bill Schmarr and,
10 at that time and previous times, he was instructed
11 as to the proper maintenance of required records.

12 Again, in 1996, the licensee was
13 inspected by Inspector Marilynn Trombatore,
14 instructed on record keeping requirements and
15 reminded his license was conditioned on his
16 maintaining records in a complete and proper
17 manner.

18 He was subsequently inspected in 2001
19 and 2004. The government will establish that the
20 licensee failed to keep the records as directed.
21 He failed to properly and completely execute ATF
22 Forms 4473, failed to completely and timely enter
23 firearms in his acquisition and disposition
24 record, and failed to timely notify ATF of the

1 theft and loss of firearms.

2 Accordingly, the government will
3 establish that the licensee failed to conduct a
4 NICS check for a disposition of a firearm and
5 failed to enter a firearm into the acquisition
6 disposition record, as well as failing to complete
7 the required acquisition information in certain
8 A and D records.

9 The government will establish these
10 violations were committed willfully and caused the
11 license issued to Jim's Guns & Whatever to be
12 subject to revocation.

13 At this time, the government will move
14 to dismiss Count No. 7 of the notice. No evidence
15 will be supported -- no evidence will be offered
16 in support of that violation.

17 I have certain preliminary exhibits to
18 offer into evidence prior to calling my first
19 witness.

20 HEARING OFFICER: Okay.

21 MS. RYBAK: These are just supporting
22 exhibits for establishing the notice and that type
23 of activity.

24 I offer Government Exhibit 1 into

1 evidence. That is a copy of the license that's
2 currently subject to this hearing.

3 HEARING OFFICER: I will accept and enter
4 into the record Government Exhibit No. 1, which is
5 the Federal Licensing System printout for James
6 Thomas Farmer, Jr.

7 MS. RYBAK: I offer Government Exhibit 2,
8 which is the duplicate original of the Notice of
9 Revocation, dated August the 3rd, 2004.

10 HEARING OFFICER: And I will accept and enter
11 into the record Government Exhibit 2, which is the
12 Notice of Revocation of License.

13 MS. RYBAK: I would enter into evidence
14 Government Exhibit 3, which is the certificate of
15 mailing, dated August the 4th, 2004, for the
16 Notice of Revocation, and certificate of receipt
17 dated August the 6th, 2004, for the Notice of
18 Revocation.

19 HEARING OFFICER: I will accept and enter
20 into the record Government Exhibit No. 3, which is
21 the postal receipts.

22 MS. RYBAK: I offer into evidence Government
23 Exhibit 4A, which is the request for hearing,
24 dated August the 6th, 2004, signed by Jim Farmer.

1 HEARING OFFICER: I will accept and enter
2 into the record Government Exhibit No. 4, which is
3 a letter from Mr. Farmer requesting a hearing.

4 MS. RYBAK: I offer into evidence Government
5 Exhibit 4B, a request for hearing, dated August
6 the 10th, 2004, signed by James Farmer.

7 HEARING OFFICER: I will accept and enter
8 into the record Government Exhibit No. 4B, which
9 is the letter from Mr. Farmer dated August 10th,
10 2004.

11 MS. RYBAK: I offer into evidence as
12 Government Exhibit 5, a request for assignment of
13 hearing officer, dated August the 10th, 2004.

14 HEARING OFFICER: And I will accept and enter
15 into the record Government Exhibit No. 5, which is
16 a request for a hearing officer.

17 MS. RYBAK: I offer into evidence Government
18 Exhibit 6, which is the Notice of Assignment of
19 Hearing Officer, dated August the 31st, 2004.

20 HEARING OFFICER: And I will accept and enter
21 into the record Government Exhibit No. 6, which is
22 the assignment of the hearing officer.

23 MS. RYBAK: I offer into evidence Government
24 Exhibit 7, which is the initial notice of hearing

1 dated December the 9th, 2004.

2 HEARING OFFICER: And I will accept and enter
3 into the record Government Exhibit No. 7, which is
4 an initial notice of hearing.

5 MS. RYBAK: I offer into evidence Government
6 Exhibit 8, which is a certificate of mailing dated
7 December the 9th, 2004, for the initial notice of
8 hearing and the certification of receipt, dated
9 December the 14th, 2004, for the notice of
10 hearing.

11 HEARING OFFICER: And I will accept and enter
12 into the record Government Exhibit No. 8,
13 certificates of mailing for the notice of hearing.

14 MS. RYBAK: I offer into the record
15 Government Exhibit 9, the hearing acknowledgment
16 dated December the 18th, 2004, signed by James
17 Farmer.

18 HEARING OFFICER: And I will accept and enter
19 into the record Government Exhibit No. 9, which is
20 the hearing acknowledgment.

21 MS. RYBAK: Government Exhibit 10 is a -- I
22 offer into evidence is a second notice of hearing
23 dated March the 4th, 2005. As a note of
24 explanation, the hearing was previously scheduled

1 in January of 2005, and due to an emergency with
2 the government attorney, that hearing had to be
3 rescheduled and this is the rescheduled date. So
4 this is the second notice of hearing, Government
5 Exhibit 10.

6 HEARING OFFICER: And I will accept and enter
7 into the record Government Exhibit No. 10, which
8 is the second notice of hearing.

9 MS. RYBAK: I would offer into evidence
10 Government Exhibit 11, which is the certificate of
11 mailing dated March the 4th, 2005, for the second
12 notice of hearing, and the certificate of receipt
13 dated March the 10th of 2005 for that second
14 notice.

15 HEARING OFFICER: And I will accept and enter
16 into the record Government Exhibit No. 11, which
17 is the certificate of mailing for the second
18 notice of hearing.

19 MS. RYBAK: At this time the government would
20 call its first witness, Julie Lanter. Inspector
21 Lanter, would you please sit here.

22 MS. LANTER: Sure.

23

24

1 JULIE LANTER,
2 called as a witness herein, was examined and
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MS. RYBAK:

6 Q. Inspector Lanter, will you please state
7 your name for the record and spell it.

8 A. Sure. My name is Julie Lanter, last
9 name L-a-n-t-e-r.

10 Q. And Inspector Lanter, by whom are you
11 currently employed?

12 A. The Bureau of Alcohol, Tobacco,
13 Firearms and Explosives.

14 Q. And how long have you been so employed?

15 A. Since November 2001.

16 Q. And what is your current post of duty?

17 A. Cincinnati Area Office.

18 Q. And your current position?

19 A. I'm an inspector.

20 Q. Have you held any previous positions
21 with the bureau?

22 A. No, I have not.

23 Q. In your position as inspector, would
24 you describe your duties as pertains to the

1 federally licensed firearms dealers?

2 A. Sure. My main duties include
3 conducting compliance inspections of federally
4 licensed firearms dealers and applications for
5 people who would like to obtain a new firearms
6 license.

7 Q. And as part of those duties, were you
8 assigned to the inspection of Jim's Guns &
9 Whatever?

10 A. Yes.

11 Q. And do you remember, approximately,
12 when you received that assignment?

13 A. December 2003.

14 Q. Did you actually conduct an inspection?

15 A. Yes, I did.

16 Q. And do you remember when you did
17 conduct that inspection?

18 A. I conducted the inspection from January
19 14th through the 28th, 2004, with three follow-up
20 visits in February of 2004, and a closing
21 conference March 2004.

22 Q. And did you conduct this inspection
23 with anyone?

24 A. No, by myself.

1 Q. And would you describe how you prepare
2 to conduct an inspection.

3 A. Sure. The first thing I'll do is check
4 the -- see if there are any special instructions
5 from my supervisor, check the assignment itself.
6 I will look at the licensee's area office file to
7 look at previous compliance inspection reports. I
8 will look at the current license under the federal
9 licensing system database to make sure that they
10 have a current valid license.

11 I'll conduct a text query on the
12 licensee to see if any prohibiting information has
13 come up. I will review a program called Online
14 Lead to see if the licensee has reported any
15 stolen firearms, any multiple sales of handguns,
16 if they've had any firearms traced to them, and
17 then, of course, make any directions and hours and
18 that sort of thing.

19 Q. Then what do you do?

20 A. Then, generally, the inspections are
21 unannounced, so I show up and start the
22 inspection.

23 Q. Was that true in this case?

24 A. Yes.

1 Q. Turning your attention to this
2 particular inspection, what type of inspection was
3 this?

4 A. It was a compliance inspection.

5 Q. And what type of license did Mr. Farmer
6 hold at this time?

7 A. He had a Type 01 license, a dealer in
8 firearms other than destructive devices, and he
9 also was a special occupational taxpayer.

10 Q. And what business activity do those --
11 does that license and tax stamp allow him to do?

12 A. The license allows him to deal in
13 firearms other than destructive devices, and the
14 tax stamp allows him to deal in firearms that fall
15 under the purview of the National Firearms Act.

16 Q. Do you recall, approximately, how long
17 Mr. Farmer has held a license with ATF?

18 A. I believe it's been since about 1968.

19 MR. FARMER, JR.: Well, actually, I was at my
20 store location from 1978, but I had had -- my dad
21 had had a Crossroads Sports Center, and then
22 about, let's see, '68, I got involved with some
23 friends with reloading, which needed a license at
24 the time, and that was under the name CBR

1 Laboratories, and so I'd say off and on from '68,
2 but in this location, from this license '78, so --
3 not wrong, but more information, right?

4 BY MS. RYBAK:

5 Q. What period did this inspection cover?

6 A. It covered September 2002 until the
7 current date, January 2004.

8 Q. And who was on the premises when you
9 conducted the inspection?

10 A. Mr. Farmer, Jr.

11 Q. And did you deal with him exclusively?

12 A. Yes.

13 Q. I hand you what has been marked as
14 Government Exhibit 32, can you identify that,
15 please.

16 A. Sure. It's Work Sheet 1, Business
17 Profile, that I completed and submitted with this
18 assignment.

19 Q. During your inspection, did you
20 determine the volume of business that the licensee
21 had conducted during that period of inspection?

22 A. Yes, I did. During the previous 12
23 months, the licensee had acquired 668 firearms and
24 disposed of 920 firearms.

1 MS. RYBAK: Government would offer Government
2 Exhibit No. 32 into evidence, please.

3 HEARING OFFICER: I will accept and enter
4 into the record Government Exhibit No. 32, which
5 is Work Sheet 1, Business Profile.

6 BY MS. RYBAK:

7 Q. I'd like to turn your attention to the
8 federal firearms licensee's required records, what
9 did you examine when you were on the licensed
10 premises?

11 A. I examined the licensee's Forms 4473, I
12 examined his acquisition and disposition bound
13 books, and multiple handgun sale reports.

14 Q. And did you conduct any kind of
15 inventory when you were on the premises?

16 A. Yes, I did a full inventory.

17 Q. And could you describe how a full
18 inventory is conducted.

19 A. Sure. I might do it a little bit
20 differently depending on how the business is set
21 up, but what worked in this case was, for the most
22 part, Mr. Farmer has a tag on each firearm that
23 has a number on it that corresponds to the entry
24 of that firearm in the logbook.

1 And so I went down through each firearm
2 and looked up the corresponding number in the
3 logbook and checked it off if it matched and if it
4 was appropriately entered in the book. So I went
5 through the whole store that way.

6 And then when I was finished, I had a
7 list of -- actually two lists. One list of
8 firearms that I found in inventory, but I couldn't
9 find in the book, and then I had another list of
10 firearms that were in the book as being open
11 dispositions, meaning they should have been in
12 inventory, but I didn't find them in inventory.

13 Q. I hand you what has been marked as
14 Government Exhibit 33. Could you identify that,
15 please.

16 A. Sure. That's Work Sheet No. 2
17 Inventory that I completed and submitted with this
18 assignment.

19 Q. And when you conducted the inventory
20 that you've just described, how many firearms did
21 you actually find in the inventory?

22 A. Initially, I found 890.

23 Q. And did you review the licensee's
24 acquisition and disposition record?

1 A. Yes.

2 Q. And how does he maintain those?

3 A. I'm not sure what --

4 Q. Does he maintain them in particular
5 books or --

6 A. Yes, yes.

7 Q. Like with one large book or how does he
8 maintain those?

9 A. Oh, no, it's several books, actually,
10 they're --

11 MR. FARMER, JR.: (Inaudible.)

12 BY THE WITNESS:

13 A. -- in different bound notebooks.

14 BY MS. RYBAK:

15 Q. And is the acquisition disposition
16 record a required record under the Gun Control
17 Act?

18 A. Yes, it is.

19 Q. And does the Gun Control Act set forth
20 how those records are to be maintained?

21 A. Yes.

22 Q. Do you happen to remember the
23 regulation involved?

24 A. Sure. The regulation is

1 27 CFR 478.125(e).

2 Q. And you examined the record based on
3 the requirements of that regulation; is that
4 correct?

5 A. Yes.

6 Q. What, if any, discrepancies did you
7 find when you did your inventory and your
8 acquisition disposition record review?

9 A. Well, like I previously stated, I found
10 -- initially found 890 firearms in inventory, but
11 the log books indicated to me that there should
12 have been 1,039 firearms in inventory.

13 Q. And how long does a licensee have to
14 record acquisitions and dispositions in his
15 acquisition disposition record?

16 A. Licensee has until the end of the next
17 business day to record acquisitions, unless they
18 have commercial records which contain all the
19 information required under the regulations, in
20 which case they have seven days. And they have
21 seven days to record dispositions.

22 Q. From the date of the sale --

23 A. Yes.

24 Q. -- to record?